

## **REMARKS**

Claims 1, 5-17, and 31-40 are pending in the present application. Claims 2-4 and 18-30 were previously canceled. Claims 1, 5-16, 31, 32, 34-37, and 39 have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

Claims 1, 5-17, and 31-40 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 6,839,767 (hereinafter “Davies”), in view of U.S. Patent No. 6,366,559 (hereinafter “Krishnan”). Applicants respectfully traverse these rejections.

Applicants’ claim 1 has been amended to recite at least one distinguishing limitation not taught or suggested in the prior art. In particular, claim 1 has been amended to recite, “wherein the measuring begins at a rate that is lower than the maximum sum of forwarding resources.” This limitation is not taught or suggested by the cited references. Applicants note that Davies discloses that, to the extent that Davies may be considered to measure multiplexing properties of the aggregated ADFs on each link (which Applicants contend it does not), the measuring is only performed upon receiving a congestion notification.

Applicants’ claim 1 has also been amended to recite, “each measuring being performed over a period of time.” This limitation is also not taught or suggested by the cited references. In fact, Davies only discloses that the current bandwidth usage is measured. Davies, Figure 5.

In view of the above remarks, Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 5-17 depend from claim 1 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants' have amended claim 31 to recite, "wherein the measuring begins at a rate that is lower than the maximum sum of forwarding messages" and "each measuring being performed over a period of time." As discussed above, the cited references fail to teach or suggest these limitations. Accordingly, Applicants respectfully request that the rejection of claim 31 be withdrawn. Claims 32-40 depend from claim 31 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Roger C. Knapp, Applicants' Attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

December 11, 2008  
Date

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